



Appeal Decision

Site visit made on 13 August 2019

by Sarah Manchester BSc MSc PhD MIEEnvSc

an Inspector appointed by the Secretary of State

Decision date: 7th October 2019

Appeal Ref: APP/Q5300/W/19/3228774

Bulls Cross Cottage, Bulls Cross, Enfield, Middlesex EN2 9HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Katerina Christofi against the decision of the Council of the London Borough of Enfield.
 - The application Ref 18/02987/FUL, dated 26 November 2018, was refused by notice dated 23 January 2019.
 - The development proposed is conversion of existing detached double garage into a single storey residence for disabled son. Existing building will be demolished and rebuilt.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - ii) The effect of the proposal on the openness of the Green Belt;
 - iii) Whether the proposal preserves the character or appearance of the Forty Hill Conservation Area;
 - iv) The effect of the proposal on highway safety;
 - v) The effect of the proposal on surface water disposal; and
 - vi) If the proposal is inappropriate development, whether the harm by reason of inappropriateness or any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development

3. Bulls Cross Cottage (3 Bulls Cross) is a 2 storey detached dwelling with a detached garage in the Green Belt. It is set in a large plot and it is widely separated from

neighbouring dwellings. The garage would be demolished and replaced by a single storey dwelling.

4. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. Policy CP33 of the Enfield Council Core Strategy 2010-2025 Adopted November 2010 (the Core Strategy) sets out that proposals for development in the Green Belt will generally be assessed according to national and regional guidance. Policy 7.16 of The London Plan Adopted March 2016 affords protection to the Green Belt in accordance with the guidance in the Framework. In this respect, paragraph 145 of the Framework states that the construction of new buildings is inappropriate in the Green Belt subject to certain exception including paragraph 145 d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, and paragraph 145 e) limited infilling in villages. I intend to deal with these in turn.

i) The replacement of a building

6. The submitted plans indicated that the existing flat-roofed garage is approximately 4.9m wide and 5.7m deep, with an overall height of roughly 2.8m. In contrast, the proposed dwelling would be roughly 7m wide and 14m in length and, although it would have an eaves height of 2.4m, the ridgeline would be in excess of 5m. Although no calculations have been provided, the dwelling would have a footprint more than 3 times larger than the garage and more than double its volume.
7. Therefore, the proposed dwelling would be materially larger than the garage and it does not meet the exception set out in paragraph 145 d) of the Framework.

ii) Limited infilling in villages

8. No 3 is part of an historic hamlet comprised of a small and varied group of properties forming a compact ribbon of development along one side of the road. The small cluster of properties is well-separated from the settlement of Enfield and from other small rural settlements in the area. While there is a public house, there is little evidence that the group of dwellings has any other characteristics of, or services or facilities such as would be expected in, a village location.
9. On this basis, I find that the appeal site is not within a village. Therefore, and notwithstanding that the appeal site is a gap between built development, the proposal would not meet the exception set out in paragraph 145e) of the Framework.

iii) Findings

10. I have found that the proposal would be inappropriate development in the Green Belt. It would not be a replacement building that would be in the same use and not materially larger than the one it replaces. It would not be limited infilling in a village. Consequently, it would conflict with national, regional and local policy to protect the Green Belt.

Effects on openness

11. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
12. Although the dwelling would be modest in size, the proposal would nevertheless result in a significant increase in both the footprint and the bulk of built development at this site. The dwelling and associated domestic paraphernalia would be clearly visible from nearby locations, including the road and the adjacent property. Even in the absence of a new boundary fence or additional bin storage, there would nevertheless be a significant visual impact as a result of both its larger size and bulk and the residential occupation of the building. Consequently, there would be a significant spatial and visual impact and a permanent and significant loss of openness of the Green Belt.
13. Given the scale of the proposals and the characteristics of the site, I therefore conclude that the proposal would result in a small loss of openness of the Green Belt in this locality. It would conflict with Policy CP33 of the Local Plan, Policy DMD82 of Enfield Council's Development Management Document (DMD) Adopted November 2014 and Policy 7.16 of the London Plan. These require, among other things that development should be in accordance with national and local guidance for the protection of the Green Belt.

Effect on Forty Hill Conservation Area

14. The Forty Hill Conservation Area (the CA) is a large sparsely populated area of farmed land with historic rural settlements. The significance of the CA derives in part from its long history of occupation and the survival of three distinctive linear historic hamlets, including Bull's Cross which is a compact collection of detached, semi-detached and terraced dwellings. The significance of the Bull's Cross area derives from the character and appearance of the compact linear rural hamlet which has changed little since the late 19th century. Collectively, the attractive buildings and the cohesive vernacular character makes a positive contribution to the appearance of the street scene and the CA. Trees also make an important contribution to the character and appearance of the CA in this location.
15. The Forty Hill Conservation Area Character Appraisal Approved February 2015 (the FHCACA) notes that threats to the CA include infill development that results in the loss of the traditional settlement pattern and modern developments that are out of keeping and erode the historic and unchanged character and appearance of the area.
16. The existing garage is a small and low building and it is screened in part by existing boundary treatments and vegetation. By virtue of its significantly larger size, the proposed dwelling would be more conspicuous. In contrast with dwellings elsewhere in the area, it would be a relatively simple and unremarkable building with a functional and modern appearance. In this respect, and notwithstanding the use of bricks and clay roof tiles to match No 3, the single storey dwelling would not relate well to the surrounding built environment. It would be in close proximity to the site boundary and adjacent dwellings. The close spacing and reduction in separation distances in this part of the CA would contribute to the appearance of a more densely urban settlement pattern. It would not make a positive contribution to the street scene.

17. The proposal would result in the loss of several trees within the garden of No 3. The evidence submitted with the appeal suggests that the trees that would be lost are not of any significant value. However, and irrespective of their individual value, the trees within the appeal site collectively contribute to the well-vegetated and verdant character and appearance of this part of the CA.
18. I accept that it would be theoretically possible to plant replacement trees. However, there is little before me to demonstrate that adequate replacement tree planting could be achieved at this site, particularly given the potential constraints and competing demands associated with the provision of off-street parking to serve the host property and sustainable drainage solutions, both of which are considered below. Therefore, and particularly in the absence of an arboricultural impact assessment, there is nothing to establish the extent of likely tree loss, the need for tree protection during works or to demonstrate that satisfactory replacement planting could be achieved as part of the appeal scheme.
19. By virtue of its overtly modern design, scale and siting, the proposed dwelling would be an incongruous feature that would erode the historic character and appearance of the hamlet. Therefore, it would fail to preserve or enhance the character or appearance of the CA. However, the proposal is relatively modest in the context of the CA as a whole and consequently it would cause less than substantial harm to its significance as a designated heritage asset.
20. Notwithstanding this, the Framework advises that great weight should be given to the asset's conservation. Paragraph 196 of the Framework states that where a development proposal would lead to less than substantial harm to the significance of the heritage asset, that harm should be weighed against the public benefits of the proposals. In this case, the proposal would be a private dwelling and there would be no public benefits. I therefore conclude that the proposal would conflict with the Framework.
21. As a result of the harm to the CA, the proposal would conflict with the development plan including Policy 7.8 of London Plan, policies CP30 and CP31 of the Core Strategy and policies DMD6, DMD37 and DMD44 of the DMD. These require, among other things, that development is appropriate in the local context, having regard to local distinctiveness and existing and historic patterns of development, and that it conserves and enhances heritage assets. In this respect, the proposal would also conflict with the guidance in the FHCACA. The proposal would also conflict with the tree protection aims of Policy 7.21 of the London Plan, Policy CP36 of the Core Strategy and Policy DMD80 of the DMD.
22. My attention has been drawn to development elsewhere in the CA, including the football training facilities at the nearby Myddleton Farm. Although full details of that scheme are not before, it does not appear directly comparable to the appeal scheme. Moreover, development elsewhere in the area, or in other administrative areas, does not in any case provide a justification for the appeal scheme, which must be considered on its own merits. In this case, I have found that the proposal would harm the significance of the CA and there are no public benefits to outweigh that harm.

Parking provision and the safe operation of the highway

23. The site is in an area with low public transport accessibility and where future occupiers and their visitors would therefore be likely to rely on private car use. In

this respect, while the appeal scheme would make provision for two parking spaces for future occupiers, it would result in the loss of the existing garage parking capacity and there would be no parking to serve the appeal property, 3 Bulls Cross. Therefore, the proposal would fail to make adequate off-street parking provision to serve both the appeal property and the appeal scheme.

24. Although the road is subject to speed restrictions at this point, evidence submitted to the appeal indicates that this is a busy and well-used stretch of road. In the absence of parking provision for the host property, future occupiers of No 3 and their visitors would have to park their vehicles on the adjacent busy road. At the time of my visit, there were very few cars parked at the roadside. However, it was during the day when the majority of residents would be expected to be away from their properties. While I cannot therefore be certain that the road is not used for parking at busier times of day, there is little before me to suggest that the road is subject to a significant degree of parking pressure.
25. Notwithstanding that there would appear to be adequate space for additional on street parking, cars parked on the highway near to the existing vehicular access points would obstruct visibility along the road for future occupiers and the occupiers of neighbouring properties attempting to join the highway, and other road users. In this respect, although there would be sufficient space for 2 cars to park adjacent to the proposed dwelling, there would not be any manoeuvring space and future occupiers would not therefore be able to enter and leave the site in forward gear. The necessity for future or neighbouring occupiers to either reverse in or out beyond several parked cars onto what is a busy stretch of road would result in potential conflict between road users including pedestrians, cyclists and motor vehicles.
26. The dwelling is proposed to be occupied by the appellant's son, who currently lives with the appellant. I accept that, in the short term, there might not be an increased demand for parking. However, I am required to be mindful of the proposal over its lifetime and of the way in which future occupiers could reasonably expect to use their properties. In this respect, the proposal does not make adequate parking provision for both the appeal scheme dwelling and No 3.
27. The appellant has indicated that the necessary additional parking spaces could be provided in a variety of ways, including through a larger dwelling with integral parking or the creation of a parking area between the scheme and No 3. However, no amended plans have been submitted with the appeal to demonstrate an alternative scheme. It is therefore not possible to assess the impact of any such proposals. Particularly given the sensitive location in a conservation area and the Green Belt, this is not therefore a matter which could be left to planning condition.
28. The proposed development would fail to provide adequate off-street parking to serve the appeal property, to the detriment of the safe operation of the highway. It would conflict with the development plan, including Policy 6.13 of the London Plan, policies CP24 and CP25 of the Core Strategy and policies DMD8 and DMD45 of the DMD. These require, among other things, that development provides adequate access and parking, having regard to the needs of future occupants, is safe for pedestrians and cyclists, and avoids unacceptable pressure on on-street parking and adverse effects on road safety.

Impact on drainage

29. The proposal would result in an increase in the amount of built development at this site with a consequent increase in surface water generation. No information has been provided to demonstrate how surface water would be managed to achieve greenfield runoff rates or how SuDS principles would be implemented at this site.
30. I have considered whether this a matter that could be dealt with by planning condition. However, as set out above, in addition to the need for water management proposals, there is a requirement for replacement tree planting and also for additional off-site parking provision, all of which have the potential to affect the character or appearance of the CA. In the absence of any details or plans which demonstrate how these various elements could be implemented at this site, I am therefore not persuaded that this is a matter that could be left to consideration at a later stage.
31. Therefore, the proposal fails to demonstrate that surface water would be appropriately managed and that SuDS could be incorporated as part of the scheme. In this respect, the proposal would conflict with the sustainable drainage aims of the development plan, including Policy CP28 of the Core Strategy and Policy DMD61 of the DMD.

Other Considerations

32. The proposed new dwelling would provide an acceptable standard of living accommodation for future occupiers. It would not result in harm to the living conditions of neighbouring occupiers or to the setting of a listed building. However, these are requirements of the development plan rather than benefits of the appeal scheme. These matters therefore carry neutral weight in my assessment.
33. Evidence has been submitted with the appeal, including a letter of support from the family's general practitioner, in respect of the personal circumstances of both the appellant and her son, including their medical conditions. Section 149 of the Equality Act 2010 sets out that the particular medical conditions in this case are a protected characteristic for the purposes of the Act. In reaching my decision, it is therefore necessary for me to have regard to the Public Sector Equality Duty (PSED) contained in the Act. This includes having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it, including by taking steps to meet the needs of such persons that are different from the needs of persons who do not share the relevant protected characteristic.
34. I appreciate that the appeal scheme would enable a degree of independent living for both parties, while still enabling the necessary levels of support. In this respect, the proposal would clearly be a very significant benefit to the appellant and her family. However, although I am sympathetic to her situation, by the appellant's own admission, she has not explored alternatives. It has not therefore been demonstrated that there are no alternatives to the proposal that could deliver substantially the same benefits without conflict with the development plan. This is therefore a matter which must carry limited weight in my consideration of the scheme.

Green Belt Balance

35. I have concluded that the proposed dwelling would be inappropriate development in the Green Belt which is, by definition, harmful. The Framework advises that substantial weight must be given to any harm to the Green Belt.
36. The proposal would fail to preserve or enhance the character or appearance of the CA. It would not make adequate provision for off-street parking. There would be likely harm to trees. There is no evidence that surface water and drainage would be dealt with appropriately.
37. The Framework states that inappropriate development should not be approved except in very special circumstances. In this case, there are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and other harm. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

38. For the reasons set out above, the appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR